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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,237	03/18/2004	Beat Heer	A01503	5627
7590 Kenneth Crimaldi Rohm and Haas Company 100 Independence Mall West Philadelphia, PA 19106		07/03/2007	EXAMINER PRYOR, ALTON NATHANIEL	
			ART UNIT 1616	PAPER NUMBER
			MAIL DATE 07/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
After the Filing of an Appeal Brief

Application No.

10/803,237

Examiner

Alton N. Pryor

Applicant(s)

HEER ET AL.

Art Unit

1616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 8/29/06 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:

a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).

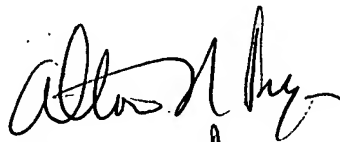
b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☐ Other: _____


Alton Pryor
Primary Examiner
A.U. 1616

35 USC 112, 1st paragraph rejection of claims 1,6-8,10-12 is maintained, because in instant application the endpoint data obtained from two examples in the specification should not be used to establish the range of the claim. It is maintained that this is new matter.

35 USC 103(a) rejection of claims 1,6-8,10-12 is maintained. Applicant has not provided data demonstrating that the ratio of the claimed ingredients of 1:1.33 in Yamaguchi is not synergistic. This is a critical demonstration since instant claims recite a synergistic ratio of 1:1 for the same ingredients which is extremely close to Yamaguchi's ratio of 1:1.33. Note, Yamaguchi's ratio rounds off to be 1:1.